

AMENDED IN ASSEMBLY APRIL 16, 2012

AMENDED IN ASSEMBLY APRIL 9, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

## ASSEMBLY BILL

**No. 2351**

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**Introduced by Assembly Member Gordon**

February 24, 2012

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An act to amend Section 51283 of the Government Code, relating to local government.

### LEGISLATIVE COUNSEL'S DIGEST

AB 2351, as amended, Gordon. Williamson Act: cancellation: fees.

The Williamson Act authorizes a landowner to petition the board or council of a city or county to cancel a contract entered into under the act, and requires the landowner to pay a cancellation fee, as specified. A board or council is authorized to grant tentative approval of the cancellation after the county assessor of the county in which the land is located has determined the current fair market value of the land as though it were free of the contractual restriction, and the board or council calculates the cancellation fee. Existing law sets the cancellation fee at 12.5% of the cancellation value of the property.

This bill would require a landowner that has petitioned the board or council of a city or county to cancel a contract to pay ~~\_\_\_\_\_~~ 5% of the total cancellation fee within 30 days of the board's or council's decision to grant tentative approval of the cancellation. *The bill would require the payment to be applied toward the total cancellation fee, as specified. The bill would require the payment to be returned to the landowner if the contract is not canceled.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 51283 of the Government Code is  
2 amended to read:

3 51283. (a) Before any action by the board or council giving  
4 tentative approval to the cancellation of any contract, the county  
5 assessor of the county in which the land is located shall determine  
6 the current fair market value of the land as though it were free of  
7 the contractual restriction. The assessor shall certify to the board  
8 or council the cancellation valuation of the land for the purpose  
9 of determining the cancellation fee. At the same time, the assessor  
10 shall send a notice to the landowner and the Department of  
11 Conservation indicating the current fair market value of the land  
12 as though it were free of the contractual restriction and advise the  
13 parties, that upon their request, the assessor shall provide all  
14 information relevant to the valuation, excluding third-party  
15 information. If any information is confidential or otherwise  
16 protected from release, the department and the landowner shall  
17 hold it as confidential and return or destroy any protected  
18 information upon termination of all actions relating to valuation  
19 or cancellation of the contract on the property. The notice shall  
20 also advise the landowner and the department of the opportunity  
21 to request formal review from the assessor.

22 (b) (1) Before giving tentative approval to the cancellation of  
23 any contract, the board or council shall determine and certify to  
24 the county auditor the amount of the cancellation fee that the  
25 landowner shall pay the county treasurer upon cancellation. That  
26 fee shall be an amount equal to 12½ percent of the cancellation  
27 valuation of the property.

28 (2) The landowner shall pay—— 5 percent of the total  
29 cancellation fee calculated pursuant to paragraph (1) within 30  
30 days of the board's or council's decision to grant tentative approval  
31 of the cancellation of the contract.

32 (A) *Upon the cancellation of a contract, the payment shall be*  
33 *applied toward the total cancellation fee calculated pursuant to*  
34 *paragraph (1).*

1     (B) *Upon notification that the cancellation of a contract will*  
2     *not be completed, the payment shall be returned to the landowner.*

3     (c) If it finds that it is in the public interest to do so, the board  
4     or council may waive any payment or any portion of a payment  
5     by the landowner, or may extend the time for making the payment  
6     or a portion of the payment contingent upon the future use made  
7     of the land and its economic return to the landowner for a period  
8     of time not to exceed the unexpired period of the contract, had it  
9     not been canceled, if all of the following occur:

10    (1) The cancellation is caused by an involuntary transfer or  
11    change in the use which may be made of the land and the land is  
12    not immediately suitable, nor will be immediately used, for a  
13    purpose which produces a greater economic return to the owner.

14    (2) The board or council has determined that it is in the best  
15    interests of the program to conserve agricultural land use that the  
16    payment be either deferred or is not required.

17    (3) The waiver or extension of time is approved by the Secretary  
18    of the Natural Resources Agency. The secretary shall approve a  
19    waiver or extension of time if the secretary finds that the granting  
20    of the waiver or extension of time by the board or council is  
21    consistent with the policies of this chapter and that the board or  
22    council complied with this article. In evaluating a request for a  
23    waiver or extension of time, the secretary shall review the findings  
24    of the board or council, the evidence in the record of the board or  
25    council, and any other evidence the secretary may receive  
26    concerning the cancellation, waiver, or extension of time.

27    (d) The first two million five hundred thirty-six thousand dollars  
28    (\$2,536,000) of revenue paid to the Controller pursuant to  
29    subdivision (e) in the 2004–05 fiscal year, and any other amount  
30    as approved in the final Budget Act for each fiscal year thereafter,  
31    shall be deposited in the Soil Conservation Fund, which is  
32    continued in existence. The money in the fund is available, when  
33    appropriated by the Legislature, for the support of all of the  
34    following:

35    (1) The cost of the farmlands mapping and monitoring program  
36    of the Department of Conservation pursuant to Section 65570.

37    (2) The soil conservation program identified in Section 614 of  
38    the Public Resources Code.

39    (3) Program support costs of this chapter as administered by  
40    the Department of Conservation.

1 (4) Program support costs incurred by the Department of  
2 Conservation in administering the open-space subvention program  
3 (Chapter 3 (commencing with Section 16140) of Part 1 of Division  
4 4 of Title 2).

5 (5) The costs to the Department of Conservation for  
6 administering Section 51250.

7 (e) When cancellation fees required by this section are collected,  
8 they shall be transmitted by the county treasurer to the Controller  
9 and deposited in the General Fund, except as provided in  
10 subdivision (d) of this section and subdivision (b) of Section 51203.  
11 The funds collected by the county treasurer with respect to each  
12 cancellation of a contract shall be transmitted to the Controller  
13 within 30 days of the execution of a certificate of cancellation of  
14 contract by the board or council, as specified in subdivision (b) of  
15 Section 51283.4.

16 (f) It is the intent of the Legislature that fees paid to cancel a  
17 contract do not constitute taxes but are payments that, when made,  
18 provide a private benefit that tends to increase the value of the  
19 property.